Filed
D.C. Superior Court
06/01/2021 13:03PM
Clerk of the Court

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

AARON RAYMOND BABBITT, Personal Representative of the Estate of Ashli Elizabeth Babbitt 4849 Cape May Avenue San Diego, California 92107 Plaintiff, v. DISTRICT OF COLUMBIA John A. Wilson Building 1350 Pennsylvania Avenue, N.W. Washington, D.C. 20004 Defendant,	Civil Action No.:

COMPLAINT

Aaron Raymond Babbitt, Personal Representative of the Estate of Ashli Elizabeth Babbitt, plaintiff, by and through his undersigned counsel, brings this action to compel compliance with the District of Columbia Freedom of Information Act, D.C. Code Sec. 2-531, and for grounds alleges:

JURISDICTION AND VENUE

1. This court has jurisdiction over the subject matter and persons of this action pursuant to the D. C. Code Sec. 11-921.

PARTIES

2. Plaintiff is the foreign personal representative of the Estate of Ashli Elizabeth Babbitt. The decedent was shot and killed on January 6, 2021, at the United States Capitol. She was killed by a United States Capitol police officer inside the Capitol. The Metropolitan Police Department of the District of Columbia investigated the shooting. Its investigation assisted the United States Attorney of the District of Columbia, who investigated possible civil rights

violations of law. The United States Attorney completed its investigation and decided against bringing criminal charges. There is no other criminal prosecution or criminal investigation pending.

3. The defendant District of Columbia has possession, custody, and control of records which plaintiff seeks access. Defendant is headquartered at John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

STATEMENT OF FACTS

4. On April 21, 2021, Plaintiff submitted a FOIA request to the Metropolitan Police Department of the District of Columbia, a public body within the District, seeking access to:

a. video footage of the incident;
b. statements of witnesses to include recorded and/or written statements of witnesses, as well as notes and summaries of what the witnesses said;
c. reports of the investigation of the incident.
d. documents that identify the officer or person who shot Ashli Babbitt in the incident;
e. statements of the officer who shot Ashli Babbitt, including recorded and/or written statements, as well as notes and summaries of what the officer said regarding the shooting and the reasons he discharged his weapon;
f. police radio communications among or between members of the United States Capitol Police between the time of 12 noon through 3:30 p.m. on January 6, 2021, at the United States Capitol;
g. audio recordings of communications by members of the United States Capitol Police concerning or relating to the circumstances leading up to the incident, the incident itself, and the aftermath.
h. reports and documents (including video footage) reviewed as part of IAD's investigation of the incident.
i. photographs of the location of the incident, the shooter, and Ashli Babbitt;
j. police training records of the shooting officer reviewed as part of the investigation of the incident;
k. the General Orders and regulations regarding the use of force applicable to the shooting officer at the time of the incident; and
l. recommendations for or against bringing criminal charges against the officer involved in the shooting.

5. On the same day, MPD acknowledged receipt of the request and advised Plaintiff had been assigned the following case number: 2021-FOIA-04618.

6. As of the date of this Complaint, MD has failed to: (i) produce the requested records or demonstrate that the requested records are lawfully exempt from production; (ii) notify Plaintiff of the scope of any responsive records they intend to produce or withhold and the reasons for any withholdings; or (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination.

7. As of this date, MPD has failed to comply with FOIA.

COUNT 1
(Violation of FOIA)

8. Plaintiff realleges paragraphs 1 through 7 as if fully stated herein.

9. Defendant is in violation of DC FOIA.

10. Plaintiff is being irreparably harmed by Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

11. MPD was required to either make the requested public records accessible or notify Plaintiff of its determinations not to make the requested public records or any part thereof accessible and the reasons for any withholdings within 15 business days or by May 12, 2021. D.C. Code § 2-532(c)(1).

12. The Mayor was required to make a determination concerning Plaintiff's administrative appeal within 10 Business days or by May 5, 2021. D.C. Code § 2-537(a).

13. Because Defendant has failed to make final determinations on Plaintiff's FOIA request and administrative appeal within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies. D.C. Code § 2-537(a)(1).

14. This case has issue in common with a closely parallel FOIA action filed by Judicial Watch, Inc. against the District of Columbia now pending in this Court.

WHEREFORE, Plaintiff respectfully requests that the Court: (i) order Defendant to conduct searches for any and all records responsive to Plaintiff's FOIA requests and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to the requests; (ii) order Defendant to produce, by a date certain, any and all non-exempt records responsive to the Plaintiff's FOIA requests and *Vaughan* indices of any responsive records withheld under claim of exemption; (iii) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the FOIA requests; (iv) grant Plaintiff an award of attorney's fees and other litigation costs reasonably incurred in this action pursuant to DC Code Sec. 2-537 (c); (v) consolidate this action with the FOIA action filed by Judicial Watch, Inc.; and (vi) and grant Plaintiff such relief as the Court deems just and proper.

Respectfully submitted,

/s/ *Terrell N. Roberts, III*
Terrell N. Roberts, III (D.C. Bar No. 965830)
ROBERTS & WOOD
Attorney for Plaintiff
6801 Kenilworth Avenue
Berkshire Building, Suite 202
Riverdale, Maryland 20737
(301) 699-0764
(301) 699-8706 Fax
troberts@robertsandwood.com

Superior Court of the District of Columbia

CIVIL DIVISION- CIVIL ACTIONS BRANCH

INFORMATION SHEET

Aaron Raymond Babitt

vs

District of Columbia

Case Number: _____

Date: June 1, 2021

☐ One of the defendants is being sued in their official capacity.

Name: *(Please Print)* Terrell N. Roberts, III	Relationship to Lawsuit
Firm Name: Roberts & Wood	☒ Attorney for Plaintiff
Telephone No.: (301) 699-0764 Six digit Unified Bar No.: 965830	☐ Self (Pro Se)
	☐ Other: _____

TYPE OF CASE: ☒ Non-Jury ☐ 6 Person Jury ☐ 12 Person Jury

Demand: $_____ Other: _____

PENDING CASE(S) RELATED TO THE ACTION BEING FILED

Case No.:_____ Judge: _____ Calendar #:_____

Case No.:_____ Judge: _____ Calendar#:_____

NATURE OF SUIT: *(Check One Box Only)*

A. CONTRACTS

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☐ 15 Special Education Fees

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☐ 24 Lead Paint

SEE REVERSE SIDE AND CHECK HERE IF USED

CV-496/June 2015

Information Sheet, Continued

C. OTHERS

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- ☐ 31 Housing Code Regulations
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II.

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- ☐ 15 Libel of Information
- ☐ 19 Enter Administrative Order as Judgment [D.C. Code § 2-1802.03 (h) or 32-151 9 (a)]
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- ☐ 25 Liens: Tax / Water Consent Granted
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/s/ Terrell N. Roberts, III

Attorney's Signature

June 1, 2021

Date

Superior Court of the District of Columbia
CIVIL DIVISION
Civil Actions Branch
500 Indiana Avenue, N.W., Suite 5000 Washington, D.C. 20001
Telephone: (202) 879-1133 Website: www.dccourts.gov

Aaron Raymond Babbitt
Plaintiff

vs.

Case Number _____

District of Columbia
Defendant

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty one (21) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

You are also required to file the original Answer with the Court in Suite 5000 at 500 Indiana Avenue, N.W., between 8:30 a.m. and 5:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 noon on Saturdays. You may file the original Answer with the Court either before you serve a copy of the Answer on the plaintiff or within seven (7) days after you have served the plaintiff. If you fail to file an Answer, judgment by default may be entered against you for the relief demanded in the complaint.

Terrell N. Roberts, III
Name of Plaintiff's Attorney

6801 Kenilworth Avenue, Suite 202
Address
Riverdale, Maryland 20737

(301) 699-0764
Telephone

Clerk of the Court

By _____
Deputy Clerk

Date _____

如需翻译,请打电话 (202) 879-4828 Veuillez appeler au (202) 879-4828 pour une traduction Để có một bài dịch, hãy gọi (202) 879-4828
번역을 원하시면, (202) 879-4828로 전화주십시오. የአማርኛ ትርጉም ለማግኘት (202) 879-4828 ይደውሉ

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See reverse side for Spanish translation
Vea al dorso la traducción al español

Filed
D.C. Superior Court
06/02/2021 10:08AM
Clerk of the Court

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CIVIL DIVISION

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l. recommendations for or against bringing criminal charges against the officer involved in the shooting.

5. On the same day, MPD acknowledged receipt of the request and advised Plaintiff had been assigned the following case number: 2021-FOIA-04618.

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Respectfully submitted,

/s/ *Terrell N. Roberts, III*
Terrell N. Roberts, III (D.C. Bar No. 965830)
ROBERTS & WOOD
Attorney for Plaintiff
6801 Kenilworth Avenue
Berkshire Building, Suite 202
Riverdale, Maryland 20737
(301) 699-0764
(301) 699-8706 Fax
troberts@robertsandwood.com

Superior Court of the District of Columbia

CIVIL DIVISION- CIVIL ACTIONS BRANCH

INFORMATION SHEET

Aaron Raymond Babitt

vs

District of Columbia

Case Number: 2021 CA 001780 B

Date: June 1, 2021

☐ One of the defendants is being sued in their official capacity.

Name: *(Please Print)* Terrell N. Roberts, III	Relationship to Lawsuit
Firm Name: Roberts & Wood	☒ Attorney for Plaintiff
Telephone No.: (301) 699-0764 Six digit Unified Bar No.: 965830	☐ Self (Pro Se)
	☐ Other: _____

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SEE REVERSE SIDE AND CHECK HERE IF USED

CV-496/June 2015

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/s/ Terrell N. Roberts, III

Attorney's Signature

June 1, 2021

Date

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Civil Actions Branch
500 Indiana Avenue, N.W., Suite 5000 Washington, D.C. 20001
Telephone: (202) 879-1133 Website: www.dccourts.gov

Aaron Raymond Babbitt
Plaintiff

vs.

Case Number 2021 CA 001780 B

District of Columbia
Defendant

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Terrell N. Roberts, III
Name of Plaintiff's Attorney

6801 Kenilworth Avenue, Suite 202
Address
Riverdale, Maryland 20737

(301) 699-0764
Telephone

Clerk of the Court

By _____
Deputy Clerk

Date 06/02/2021

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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION Civil Actions Branch
500 Indiana Avenue, N.W., Suite 5000, Washington, D.C. 20001
Telephone: (202) 879-1133 • Website: www.dccourts.gov

AARON RAYMOND BABBITT
Vs.
DISTRICT OF COLUMBIA

C.A. No. 2021 CA 001780 B

INITIAL ORDER AND ADDENDUM

Pursuant to D.C. Code § 11-906 and District of Columbia Superior Court Rule of Civil Procedure ("Super. Ct. Civ. R.") 40-I, it is hereby ORDERED as follows:

(1) This case is assigned to the judge and calendar designated below. All future filings in this case shall bear the calendar number and the judge's name beneath the case number in the caption.

(2) Within 60 days of the filing of the complaint, plaintiff must file proof of service on each defendant of copies of (a) the summons, (b) the complaint, and (c) this Initial Order and Addendum. The court will dismiss the claims against any defendant for whom such proof of service has not been filed by this deadline, unless the court extended the time for service under Rule 4(m).

(3) Within 21 days of service (unless otherwise provided in Rule 12), each defendant must respond to the complaint by filing an answer or other responsive pleading. The court may enter a default and a default judgment against any defendant who does not meet this deadline, unless the court extended the deadline under Rule 55(a).

(4) At the time stated below, all counsel and unrepresented parties shall participate in a remote hearing to establish a schedule and discuss the possibilities of settlement. Counsel shall discuss with their clients **before** the hearing whether the clients are agreeable to binding or non-binding arbitration. **This order is the only notice that parties and counsel will receive concerning this hearing.**

(5) If the date or time is inconvenient for any party or counsel, the Civil Actions Branch may continue the Conference **once**, with the consent of all parties, to either of the two succeeding Fridays. To reschedule the hearing, a party or lawyer may call the Branch at (202) 879-1133. Any such request must be made at least seven business days before the scheduled date.

No other continuance of the conference will be granted except upon motion for good cause shown.

(6) Parties are responsible for obtaining and complying with all requirements of the General Order for Civil cases, each judge's Supplement to the General Order and the General Mediation Order. Copies of these orders are available in the Courtroom and on the Court's website http://www.dccourts.gov/.

Chief Judge Anita M. Josey-Herring

Case Assigned to: Judge FLORENCE Y PAN
Date: June 2, 2021
Initial Conference: **REMOTE HEARING - DO NOT COME TO COURTHOUSE**
SEE REMOTE HEARING INSTRUCTIONS ATTACHED TO INITIAL ORDER

9:30 am, Friday, September 03, 2021
Location: Courtroom 415
500 Indiana Avenue N.W.
WASHINGTON, DC 20001

ADDENDUM TO INITIAL ORDER AFFECTING ALL MEDICAL MALPRACTICE CASES

D.C. Code § 16-2821, which part of the Medical Malpractice Proceedings Act of 2006, provides, "[a]fter action is filed in the court against a healthcare provider alleging medical malpractice, the court shall require the parties to enter into mediation, without discovery or, if all parties agree[,] with only limited discovery that will not interfere with the completion of mediation within 30 days of the Initial Scheduling and Settlement Conference ('ISSC'"), prior to any further litigation in an effort to reach a settlement agreement. The early mediation schedule shall be included in the Scheduling Order following the ISSC. Unless all parties agree, the stay of discovery shall not be more than 30 days after the ISSC."

To ensure compliance with this legislation, on or before the date of the ISSC, the Court will notify all attorneys and *pro se* parties of the date and time of the early mediation session and the name of the assigned mediator. Information about the early mediation date also is available over the internet at https://www:dccourts.gov/pa/. To facilitate this process, all counsel and *pro se* parties in every medical malpractice case are required to confer, jointly complete and sign an EARLY MEDIATION FORM, which must be filed no later than ten (10) calendar days prior to the ISSC. D.C. Code § 16-2825 Two separate Early Mediation Forms are available. Both forms may be obtained at www.dccourts.gov/medmalmediation. One form is to be used for early mediation with a mediator from the multi-door medical malpractice mediator roster; the second form is to be used for early mediation with a private mediator. Plaintiff's counsel is responsible for eFiling the form and is required to e-mail a courtesy copy to earlymedmal@dcsc.gov. Unrepresented plaintiffs who elect not to eFile must either mail the form to the Multi-Door Dispute Resolution Office at, Suite 2900, 410 E Street, N.W., Washington, DC 20001, or deliver if in person if the Office is open for in-person visits.

A roster of medical malpractice mediators available through the Court's Multi-Door Dispute Resolution Division, with biographical information about each mediator, can be found at www.dccourts.gov/medmalmediation/mediatorprofiles. All individuals on the roster are judges or lawyers with at least 10 years of significant experience in medical malpractice litigation. D.C. Code § 16-2823(a). If the parties cannot agree on a mediator, the Court will appoint one. D.C. Code § 16-2823(b).

The following people are required by D.C. Code § 16-2824 to attend personally the Early Mediation Conference: (1) all parties; (2) for parties that are not individuals, a representative with settlement authority; (3) in cases involving an insurance company, a representative of the company with settlement authority; and (4) attorneys representing each party with primary responsibility for the case.

No later than ten (10) days after the early mediation session has terminated, Plaintiff must eFile with the Court a report prepared by the mediator, including a private mediator, regarding: (1) attendance; (2) whether a settlement was reached; or, (3) if a settlement was not reached, any agreements to narrow the scope of the dispute, limit discovery, facilitate future settlement, hold another mediation session, or otherwise reduce the cost and time of trial preparation. D.C. Code§ 16-2826. Any Plaintiff who is unrepresented may mail the form to the Civil Actions Branch at [address] or deliver it in person if the Branch is open for in-person visits. The forms to be used for early mediation reports are available at www.dccourts.gov/medmalmediation.

Chief Judge Anita M. Josey-Herring

The following instructions are for participants who are scheduled to have cases heard before a Civil Judge in a **Remote Courtroom**

Option1: (AUDIO ONLY/Dial-in by Phone):

Toll 1 (844) 992-4762 or (202) 860-2110, enter the Meeting ID from the attachment followed by #, press again to enter session.

- *Please call in no sooner than 5 minutes before your scheduled hearing time. Once you have joined the session, please place your phone on mute until directed otherwise. If you should happen to get disconnected from the call, please call back in using the phone number and access number provided and the courtroom clerk will mute your call until the appropriate time.*

If you select **Option 2** or **Option 3** use the Audio Alternative

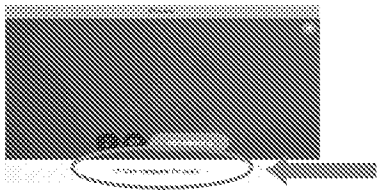
Option 2: (LAPTOP/ DESKTOP USERS 1):

Open Web Browser in Google Chrome and copy and paste following address from the next page:
https://dccourts.webex.com/meet/XXXXXXXXX

Option 3: (LAPTOP/ DESKTOP USERS 2):

Open Web Browser in Google Chrome and copy and paste following address
https://dccourts.webex.com Select **Join**, enter the Meeting ID from the next page

AUDIO ALTERNATIVE: Instead of automatically using **USE COMPUTER FOR AUDIO**, select **CALL-IN** and follow the **CALL-IN** prompt window. Use a cell phone or desk phone. You will be heard clearer if you **do not** place your phone on SPEAKER. It is very important that you enter the **ACCESS ID #** so that your audio is matched with your video.



Option 4: (Ipad/SMART PHONE/TABLET):

- Go to App Store, Download WebEx App (Cisco WebEx Meetings)
- Sign into the App with your Name and Email Address
- Select Join Meeting
- Enter address from the next page: https://dccourts.webex.com/meet/XXXXXXXXX
- Click join and make sure your microphone is muted and your video is unmuted (if you need to be
- seen). If you only need to speak and do not need to be seen, use the audio only option.
- When you are ready click "Join Meeting". If the host has not yet started the meeting, you will be placed in the lobby until the meeting begins.

For Technical Questions or issues Call: (202) 879-1928, Option #2

Superior Court of the District of Columbia
Public Access for Remote Court Hearings
(Effective August 24, 2020)

The current telephone numbers for all remote hearings are: 202-860-2110 (local) or 844-992-4726 (toll free). After dialing the number, enter the WebEx Meeting ID as shown below for the courtroom. Please click a WebEx Direct URL link below to join the hearing online.

Audio and video recording; taking pictures of remote hearings; and sharing the live or recorded remote hearing by rebroadcasting, live-streaming or otherwise are not allowed

Division	Courtroom	Types of Hearings Scheduled in Courtroom	Public Access via WebEx	
			WebEx Direct URL	WebEx Meeting ID
Auditor Master	206	Auditor Master Hearings	https://dccourts.webex.com/meet/ctbaudmaster	129 648 5606
Civil	100	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb100	129 846 4145
	205	Foreclosure Matters	https://dccourts.webex.com/meet/ctb205	129 814 7399
	212	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb212	129 440 9070
	214	Title 47 Tax Liens; and Foreclosure Hearings	https://dccourts.webex.com/meet/ctb214	129 942 2620
	219	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb219	129 315 2924
	221	Civil 1 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb221	129 493 5162
	318	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb318	129 801 7169
	320		https://dccourts.webex.com/meet/ctb320	129 226 9879

	400	Judge in Chambers Matters including Temporary Restraining Orders, Preliminary Injunctions and Name Changes	https://dccourts.webex.com/meet/ctb400	129 339 7379
	415	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb415	129 314 3475
	516		https://dccourts.webex.com/meet/ctb516	129 776 4396
	517		https://dccourts.webex.com/meet/ctb517	129 911 6415
	518		https://dccourts.webex.com/meet/ctb518	129 685 3445
	519		https://dccourts.webex.com/meet/ctb519	129 705 0412
	JM-4		https://dccourts.webex.com/meet/ctbjm4	129 797 7557
	A-47	Housing Conditions Matters	https://dccourts.webex.com/meet/ctba47	129 906 2065
	B-52	Debt Collection and Landlord and Tenant Trials	https://dccourts.webex.com/meet/ctbb52	129 793 4102
	B-53	Landlord and Tenant Matters including Lease Violation Hearings and Post Judgment Motions	https://dccourts.webex.com/meet/ctbb53	129 913 3728
	B-109	Landlord and Tenant Matters	https://dccourts.webex.com/meet/ctbb109	129 127 9276
	B-119	Small Claims Hearings and Trials	https://dccourts.webex.com/meet/ctbb119	129 230 4882